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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNIVERSAL CITY STUDIOS, INC., :
Plaintiff, :
- against - : 82 Civ. 4259
NINTENDO CO., LTD. and :
NINTENDO OF AMERICA, INC. :
Defendants. : DEPOSITION
-----x

DEPOSITION UPON ORAL EXAMINATION
OF G U N P E I Y O K O I
TAKEN AT NINTENDO CO., LTD., KYOTO,
JAPAN, ON JANUARY 13TH, 1983,
COMMENCING AT 9:15 A.M. AND
ENDING AT 12:35 A.M., THEREOF.

1 Yamauchi, what is it that you did?
2 THE WITNESS: What I did toward Mr. Yamauchi?

3 To Mr. Yamauchi's order?

4 MR. FAIRHURST: No, what did you do to carry out his
5 order? How did you start doing it?

6 A. First I had to conceive the idea.

7 Q. How did you go about doing that?

8 A. In coming up with an idea I had a meeting with
9 the Creative Section.

10 Q. Who was at that meeting?

11 A. I don't remember all the names, but Mr. Yamada,
12 Mr. Miyamoto and others. Others I don't remember
13 the names.

14 Q. Was Mr. Oka there?

15 THE WITNESS: Okada?

16 MR. FAIRHURST: Okada.

17 A. No.

18 Q. Is there a Mr. Oka, O-K-A?

19 A. No, I don't think there was such a person.

20 Q. If I suggest to you that this meeting was held
21 on March 2nd, does that refresh your recollection
22 as to whether this was the meeting to which you
23 are referring?

24 A. No.

25 Q. Did you make any notes of this meeting?

- 1 A. No.
- 2 Q. Did you prepare any documents in preparation
3 for this meeting?
- 4 A. No.
- 5 Q. Tell me what occurred at this meeting.
- 6 A. It was a meeting where we were to give ideas
7 as to what kind of game for business use are we
8 to develop.
- 9 Q. Did you yourself give any ideas at this meeting?
- 10 A. Yes.
- 11 Q. What were they?
- 12 A. A game of Popeye.
- 13 Q. What did you say about Popeye?
- 14 A. Simply, "let's make a game where Popeye would be
15 the main character."
- 16 Q. How did you know about Popeye?
- 17 A. At that time a game of Popeye was being developed
18 for home use. This was in Development No. 1.
- 19 Q. Did you give any other ideas at this meeting?
- 20 A. I don't remember.
- 21 Q. Do you recall whether Mr. Yamada had any ideas?
- 22 A. No, I don't remember.
- 23 Q. What about Mr. Miyamoto?
- 24 A. Similarly, I don't remember.
- 25 Q. What about any other ideas that you remember from

1 the meeting, putting aside whose idea it happened
2 to have been?

3 A. I think there were some ideas, several ideas.
4 Excuse me. At that meeting, we did not arrive
5 at any conclusion as to the ideas.

6 Q. You mentioned Popeye as one idea. Do you recall
7 what the other ideas were, putting aside who came
8 up with the idea?

9 A. For example, there was the following idea.
10 In the middle of the display there is a sun
11 and several birds are flying around the sun.
12 And the birds which fly close to the sun will
13 bear eggs which are boiled eggs. (Laughter)

14 Q. Was there any mention at this meeting by anyone
15 of developing a game with a gorilla?

16 A. I don't think there was.

17 Q. What happened after this meeting?

18 THE WITNESS: After the meeting has ended what happened?

19 Q. What was the next step?

20 A. Probably we tried to conceive what kind of
21 construction the game of Popeye would have.
22 By 'construction' I mean we would make a sort of
23 conceptual drawing, trying to lead to in what way
24 the game will develop, the idea of the game.

25 MR. FAIRHURST: Let me put in front of you, Mr. Yokoi,

1 a document that has been previously identified
2 in this litigation as M-2.

3 Q. Is this what you were referring to in your previous
4 answer?

5 A. Yes, I think this is it.

6 MR. FAIRHURST: Thank you.

7 Q. Now, at this meeting, if it occurred, on March 2nd,
8 the first creative meeting, was there a discussion
9 among the participants of the meeting about whether
10 the new game should employ characters, by which I mean
11 people, birds, animals, etc.?

12 A. At that first meeting we didn't even come up with
13 that drawing. So, the idea was not as specific.

14 Q. I understand that. What I meant was whether just
15 in the abstract discussion of the kind of game
16 there was a discussion that it would be a good
17 idea to have the new game with specific characters,
18 by which I mean people, animals?

19 A. No, I don't think there was such a discussion.

20 Q. Was there a discussion at this meeting about
21 whether the new game ought to tell a simple story?

22 A. No.

23 Q. Was there a second meeting after this first meeting?

24 A. After the first meeting, rather than a meeting, we
25 just had a discussion between Mr. Miyamoto and I

1 myself.

2 Q. Do you remember when that discussion took place?

3 A. Rather than stating precisely when, it was
4 like maybe five minutes on one day and maybe
5 one hour next day. So, it was irregular and
6 it was held frequently.

7 Q. You are referring to several discussions with
8 Mr. Miyamoto following that meeting?

9 A. Yes.

10 Q. Can you tell me what you and Mr. Miyamoto discussed?

11 A. We discussed about making a game with Popeye and
12 we presented ideas.

13 Q. What ideas did you present?

14 A. Ideas come up during a discussion or by discussing.
15 So, I do not remember precisely which side or which
16 person presented an idea. So, I cannot answer
17 precisely to your question.

18 Q. Could you tell me what some of the ideas were,
19 putting aside how they came up?

20 A. So, we were to make a game with Popeye. So
21 we decided that, as the background picture or
22 object, we would use a sailorman's port.

23 MR. KIRBY: Would you read back the last question
24 and answer?

25 (The reporter read back the Q and A.)

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1 Okay. Are you going to pursue that? I mean,
2 are you going to ask another question to follow
3 up onto that answer?

4 MR. FAIRHURST: Yes.

5 MR. KIRBY: In that case, would you read in Japanese
6 the last answer, so that he will have his mind
7 refreshed?

8 MR. FAIRHURST: Okay, fine.

9 (The reporter read back the last answer
10 and the interpreter gave its translation
11 in Japanese.)

12 A. Therefore, let me make my explanation using this
13 picture.

14 MR. FAIRHURST: Fine, then, you anticipated my question.

15 MR. KIRBY: Referring to what has been identified
16 as M-2.

17 MR. FAIRHURST: You anticipated my question.

18 THE WITNESS: Because it was there.

19 A. In the ports always we see vessels or ships.
20 And to represent stairs or gangway which goes
21 on the board, we drew this brown line and as
22 to ladders we assume that the ships which were
23 used in the old days when Popeye existed, used to
24 have in ships. So, we put ladders in the picture.
25 As to spinach it is drawn here.

MR. KIRBY:

1 of the major sketch on M-2.

2 A. And also we find wooden barrels in the port.
3 So, we drew the barrels in the picture.
4 Not the left side but the right side--both the
5 right side and the left side.

6 MR. KIRBY: The witness refers to the spinach.

7 Q. At some time, Mr. Yokoi, the idea of developing
8 a game based on Popeye was abandoned, was it not?

9 A. The basis or the foundation of the game continued
10 to exist. But we abandoned to use Popeye for the
11 game.

12 Q. Can you tell me why Popeye was abandoned at that time?

13 A. It is a technological problem. In those days we
14 could not depict or draw the character of Popeye
15 using the circuit in those days properly.

16 Q. Was the technology adequate at that time to
17 draw Olive Oil, the female character shown in
18 M-2, in the upper lefthand side?

19 A. No, I thought it wasn't enough at that time
20 in order to show it as Olive.

21 Q. Then, would your answer be the same with respect
22 to the villain Bruto also shown in the M-2
23 in the upper left hand corner?

24 A. Yes, my answer will be the same.

25 Q. So that I understand what you are telling me about

1 the technology, do you mean that you couldn't
2 get the sufficient delineation in articulation
3 of the character?

4 A. We didn't have the circuit with such technology.

5 Q. When, to your recollection, Mr. Yokoi, was the
6 first time you heard the suggestion that the
7 new game be based on a gorilla?

8 A. Rather than I heard such a suggestion, this
9 came up--I mean Mr. Miyamoto and myself came up
10 with it during our discussions. It was within
11 one month after the first meeting was held.

12 Q. Do you recall whether it was Mr. Miyamoto's
13 idea or your idea?

14 A. I don't remember exactly. But it may have been
15 Mr. Miyamoto's idea.

16 Q. Did Mr. Miyamoto have a name for this gorilla
17 when it came up?

18 A. No.

19 Q. When was the first time you recall the gorilla being
20 given a name?

21 A. Gorilla being named did you say?

22 Q. Let me repeat the question. When was the first
23 time you have heard the gorilla being given a name?

24 MR. KIRBY: Being named.

25 MR. FAIRHURST: Being named, yeah, that's fair enough.

1 THE WITNESS: I don't quite understand your question.
2 Are you referring to the gorilla in this particular
3 game?

4 MR. FAIRHURST: Yes.

5 A. I don't think the gorilla was named.

6 Q. It was named at some time, was it not?

7 A. It was named when the game was named.

8 Q. Well, what did Mr. Miyamoto call it?

9 THE WITNESS: Before the name for the equipment
10 was given?

11 MR. FAIRHURST: Yes.

12 A. Sometimes he called it gorilla, KONG, or KING KONG.

13 Q. Was there a subsequent meeting other than the
14 discussions between you and Mr. Miyamoto, in which
15 you, Mr. Miyamoto, and Mr. Yamada and perhaps others
16 got together again to discuss the development of
17 this project?

18 A. I don't think there was such a meeting?

19 Q. Earlier you told us that Mr. Yamauchi had asked
20 you to begin development of this project. Between
21 the time that you did begin the project and the
22 time that the Exhibit that has been called M-2
23 was prepared, did you give Mr. Yamauchi any reports
24 on how things were developing?

25 A. No.

1 ideas on that.

2 .Q. What were your ideas as to how to make it amusing?

3 THE WITNESS: My idea? Idea from my side?

4 MR. FAIRHURST: Yes, if you recall.

5 A. As I mentioned before, it is very hard to distinguish
6 whose idea it was. The idea came up during our
7 discussions.

8 Q. Well, putting aside whose idea it was, how were
9 you going to make it amusing?

10 THE WITNESS: Which are you referring to? When you
11 say when we were working on the idea, are you
12 referring to the game with gorilla or the game
13 with Popeye?

14 MR. FAIRHURST: The game with the gorilla.

15 A. Since a decision was made not to use Popeye
16 characters in the game, we worked on the idea how
17 we should replace the object used in the game with
18 Popeye when we were to develop the game with a
19 gorilla. And in the game with Popeye, the person
20 who ate the spinach becomes a superman. And in the
21 game with the gorilla, we replaced the spinach
22 with a hammer. So, when the character takes up
23 the hammer, the character becomes a superman.
24 And the spinach I am referring to is the spinach
25 which is written on the Exhibit M-2. In the game

1 with gorilla the spinach which are written in
2 the document M-2 were replaced with a hammer.

3 Q. Have you ever seen the motion picture KING KONG?

4 A. In my memory I remember there was a TV broadcast
5 about 20 to 30 years ago.

6 Q. Have you ever seen any KING KONG motion picture?

7 A. The motion picture of KING KONG was broadcasted
8 on TV.

9 Q. You have never seen the KING KONG motion picture
10 in a theatre?

11 A. No, I haven't.

12 Q. When Mr. Miyamoto suggested a gorilla, to which
13 he referred as KONG and KING KONG, did you know
14 who KING KONG was?

15 A. Yes.

16 Q. How did you know?

17 A. A big gorilla or a pronoun for a gorilla.

18 MR. FAIRHURST: You can't have a pronoun for a gorilla, but
19 that's okay.

20 Q. At some time, Mr. Yokoi, do you recall giving an
21 affidavit in conjunction with proceedings in
22 Japan involving Falcon?

23 A. I do not know that it was a Falcon that was
24 a party. But I know that there was some case.

25 MR. KIRBY: (SHORT RECESS)
By the way, you were quite correct that

1 the word wasn't 'pronoun'. Do you want him to
2 correct that?

3 MR. FAIRHURST: Yeah, I think I know what word he is
4 going to use. Sure, that's fair enough.

5 MR. KIRBY: (To the interpreter) Better repeat
6 this in Japanese. In response to a question
7 asked almost immediately before the recess,
8 Mr. Fairhurst asked you a question, in which
9 you used the word 'pronoun' or may have used
10 the word 'pronoun'. Was that the word that
11 you meant?

12 THE WITNESS: Then, could you put the same question
13 again?

14 (The reporter read back previous
15 questions and answers.)

16 A. By saying 'pronoun' I meant the synonymous.

17 MR. FAIRHURST: The synonym.

18 THE WITNESS: Yes.

19 Q. Just before the break, Mr. Yokoi, I asked you
20 whether you recall giving an affidavit that was
21 used in some legal proceedings in Japan, and I
22 believe you said yes. Is that correct?

23 A. Yes.

24 MR. FAIRHURST: Now, I am going to ask your counsel to
25 ut in front of you what we will have marked as

1 Q. All right. Going to paragraph (2), my English
2 language translation says: "The new line should
3 contain the game content which employs more
4 specific characters and has a story."
5 Does that correctly reflect what you intended to
6 say in the document?

7 A. Yes.

8 Q. Now, lastly, in paragraph (3), second line,
9 it says: "The game story and the characters
10 set forth in the following were selected and decided
11 from many ideas presented as the above described
12 outlines at the development meeting in March 1981."

13 A. Yes.

14 Q. My question is, if you look at the following pages
15 of the affidavit, you will see that it recites
16 the development in the general sense of the entire
17 project. But the sentence that was just read to
18 you says that the following were selected, referring
19 to what follows in the pages following, at the develop-
20 ment meeting in March 1981. And I am a little bit
21 confused, because it refers to one meeting. And
22 I assume that is an error.

23 A. Now, I got the point. According to the Japanese
24 version, it states "in the development meeting
25 which was held in March." But this does not mean

1 the meeting which was held on March 2nd, but
2 it means the meeting which was held after that
3 meeting between I myself and Mr. Miyamoto, and
4 specifically refers to the meeting which was
5 held on 5th of March.

6 Q. Who was at this meeting of 5th of March?

7 THE INTERPRETER: Sorry, it wasn't 5th, but it was some time
8 in March. Would you please correct it? Because
9 in Japanese it sounds the same way.

10 MR. FAIRHURST: All right, let me see if I can clear this
11 up.

12 Q. Do you mean that there was a series of discussions
13 and meetings in early part of March as opposed to
14 a single event, which all of these things are from?

15 A. Yes.

16 MR. FAIRHURST: Okay, that's what I want.

17 Q. Was it planned early on in the development of the
18 DONKEY KONG that the game should use characters with
19 which people were familiar?

20 A. Yes, rather than planned on, I had such an intention.

21 Q. Was it your intention that the new game had a
22 simple story line?

23 A. I thought about that to some extent. But that was
24 not the single main idea.

25 Q. What was the main idea?

1 A. The story of a man coming into rescue of a woman.
2 Not anything special.

3 Q. Did you know, when you began working on this
4 DONKEY KONG Project, that the gorilla KING KONG
5 in the motion picture climbs a large building?

6 A. I remember the scene of the gorilla climbing up
7 a big building.

8 Q. What do you remember that from?

9 A. As I have told you earlier, I saw the movie of
10 a KING KONG which was broadcast on TV 20 or 30
11 years ago.

12 MR. FAIRHURST: Good memory.

13 Q. Do you recall whether KING KONG was carrying a
14 woman up the side of the building?

15 A. That I don't remember.

16 Q. As you saw it, what did Mr. Yamada do in conjunction
17 with the DONKEY KONG project?

18 A. Mr. Yamada's job or responsibility is producing
19 pamphlets or packages for final products. And
20 I imagine he did the same thing for DONKEY KONG.

21 Q. Did he come up with any ideas for the project,
22 the creative ideas of the sort that you have been
23 describing that you and Mr. Miyamoto were bouncing
24 of each other?

25 A. As far as the DONKEY KONG game was concerned, he

1 did not come up with any idea.

2 Q. Were you involved in the naming of the DONKEY
3 KONG game?

4 A. Yes.

5 Q. Would you tell me what your involvement was?

6 A. I asked many people to think over the name for
7 the game. This request was made orally.

8 Q. One of those persons was Mr. Todoru?

9 A. I think so.

10 Q. Mr. Miyamoto?

11 A. I did not have discussions with Mr. Miyamoto
12 with regard to the name for the game.

13 Q. Do you recall some of the others that you asked
14 for their suggestions for names?

15 A. The only thing I remember is that no suggestion
16 was made from other people.

17 Q. So, Mr. Todoru was the only one who came back to
18 you with some suggestions?

19 A. In my memory I think it was only Mr. Todoru.

20 Q. I didn't ask you this before. But what was Mr.
21 Komai's role in the development of the DONKEY
22 KONG game?

23 A. I do not know so well.

24 Q. Did you discuss any of your ideas or Mr. Miyamoto's
25 ideas for the game in the early period, March or

1 early April, with Mr. Komai?
2 A. No.

3 Q. When you asked Mr. Todoru to propose some names for
4 the game, did you suggest to him that the name to
5 use to begin with in any event was KONG?

6 A. I might have.

7 Q. Do you recall whether you gave him any pictures
8 of the game, graphics, and such, when you asked him
9 to come up with suggestions?

10 A. I don't think I showed them to him.

11 Q. When you asked Mr. Todoru for suggestions for a
12 name, did you have in your own mind some notion
13 of what elements were important in the finding of
14 a name for the project?

15 A. I think there was.

16 Q. Could you tell me what they were?

17 A. I had the feeling that the name should be a
18 comical name.

19 Q. Any thing else?

20 A. Since a gorilla appears in the game, if we are to
21 use the word gorilla, then the project might
22 be better to use the word gorilla, because it
23 sounds more comfortable to me.

24 (The interpreter gave a corrected
25 translation.)

1 Since a gorilla appears in the game, rather than
2 using the word gorilla, I might have had the
3 feeling that the word KONG may sound more
4 comfortable and so we should use KONG. But
5 I don't remember whether I actually said this.

6 Q. Was it important to you that, whatever name was
7 used in the game, it be one that Japanese, Americans
8 and Europeans alike would understand?

9 A. Especially I focused on the point that the name
10 should be more understandable to Japanese people.

11 Q. It was important to you that the name be under-
12 standable to Japanese? Is that what your testimony
13 is?

14 A. No, it is not so. My understanding was that when
15 Japanese people or people living in Japan who under-
16 stand English very well regard the name of the
17 game is not incorrect in terms of English....

18 MR. FAIRHURST: 'Incorrect' cannot be the word.

19 A. Or that they regard that it is a proper English
20 name.

21 Q. It was important to you that the name be one that
22 English speaking people would recognize?

23 A. I did not have such a feeling.

24 Q. What I am getting at, Mr. Yokoi, is whether it was
25 important to you that the name, whatever the name

1 would be, be one that Americans and Japanese alike
2 recognize or be familiar with. Is that what your
3 intention was?

4 A. Yes.

5 Q. Do you recall, when you were speaking to Mr. Todor
6 about coming up with a suggestion or a list of
7 names, whether you gave him a description of the
8 game as it then existed?

9 THE WITNESS: What do you mean by 'description'?

10 Q. Did you explain to him what the game was about?

11 A. Briefly I did.

12 Q. Do you remember what you told him, Mr. Yokoi to
13 Mr. Todor?

14 A. I don't remember exactly now.

15 Q. Did you tell Mr. Todor not to use any specific
16 names?

17 A. No.

18 Q. How would you describe today the characteristics,
19 by which I mean the behavioral characteristics
20 of the gorilla in the game?

21 THE WITNESS: Now?

22 MR. FAIRHURST: Yes.

23 A. Tomma, stupid gorilla.

24 MR. FAIRHURST: That's the only word I do know. (Laughter)

25 Q. Going back for a moment to your affidavit in the

1 the Falcon litigation--

2 MR. FAIRHURST: If you would put it in front of you
3 if you would need it--

4 Q. --when you were preparing that, did you submit
5 any documents to Mr. Matsumoto in conjunction with
6 your statement?

7 THE WITNESS: In preparation of this document?

8 MR. FAIRHURST: That is correct.

9 A. I do not know whether it was Mr. Matsumoto, but I
10 submitted a kind of note to the General Affairs
11 Section.

12 Q. Have you seen that note recently?

13 A. I think it was already thrown away, because it
14 was my handwriting.

15 Q. Is the General Affairs Section Mr. Imanishi's
16 section?

17 A. Yes.

18 Q. To your knowledge does Mr. Imanishi have anything
19 to do with the development or naming of the DONKEY
20 KONG game?

21 A. Yes.

22 Q. He did?

23 A. Yes.

24 Q. Would you tell me what you believe Mr. Imanishi
25 did in conjunction with the project?

1 A. I think he was engaged in investigations whether
2 the proposed name was usable or not.

3 Q. Trademark searches, is that what you have in mind?
4 A. Yes.

5 MR. FAIRHURST: I would like to have your counsel put in
6 front of you what was previously been identified
7 as M-5.

8 Q. Have you seen M-5, the document that your Counsel
9 is showing you now, before today?

10 A. No, I haven't.

11 Q. Do you recognize the writing on the page?

12 A. No.

13 Q. If I suggested to you that that was Mr. Miyamoto's
14 handwriting, does that help you at all?

15 A. It might be.

16 Q. Do you recall discussing any of those names with
17 Mr. Miyamoto in conjunction with the process by
18 which the project became named?

19 A. No, I don't.

20 MR. FAIRHURST: Next, I would like to have your counsel
21 put in front of you what has been marked as M-3,
22 a single page form. So, you know what I am referring
23 to.

24 Q. Do you recognize the handwriting on the page
25 that your counsel is referring to at the moment?